

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

---

ROGER W. ALSWAGER,

Plaintiff,

v.

Case No. 09-CV-85

AEGIS SCIENCES CORPORATION,  
TIMOTHY A. ROBERT, TRAVIS CURTIS,  
DAVID BLACK, REGINA SWEENEY,  
and JOHN DOE,

Defendants.

---

**ORDER**

The plaintiff, who is currently incarcerated at the Chippewa Valley Correctional Treatment Facility, filed this *pro se* action claiming that the defendants misrepresented the manner in which they could perform a blood test on him. The plaintiff claims that he relied on such misrepresentations, which led to his drunk driving conviction. The amended complaint, filed February 26, 2009, is the operative complaint in this action. This order addresses several pending motions including the plaintiff's motions for extensions of time to respond to the defendants' motions to dismiss.

On July 10, 2009, the plaintiff filed a motion to strike Exhibits A & B to defendants' motion to vacate entry of default against defendant Dr. David Black. However, the court previously granted the defendants' motion to vacate entry of

default against Dr. Black and thus the plaintiff's motion is moot. The court notes that the defendants' motion was granted without reference to Exhibits A & B.

On July 14, 2009, the plaintiff filed a motion for leave to conduct discovery on the issues of sufficiency of service of process and personal jurisdiction. However, the issues raised in the plaintiff's motion were already addressed in the court's order of July 10, 2009. Specifically, the court denied the plaintiff's motion for extension of time to file a response to the defendants' motion to vacate entry of default as to defendant Dr. Black because any response by the plaintiff would have been futile. The court then found that Dr. Black was not properly served because a copy of the summons was signed by an individual who did not reside with Dr. Black and hence leaving a copy of the summons with that person did not constitute proper service. Fed. R. Civ. P. 4(e)(2). The court further found that even if defendant Dr. Black had been properly served, the defendants set forth sufficient justification to set aside the entry of default. Based on the foregoing, the plaintiff's motion for further discovery will be denied.

On August 10, 2009, the plaintiff filed a motion for a thirty-day extension of time in which to respond to motions to dismiss filed by defendants Dr. Black and Aegis Sciences Corporation. These defendants do not object to an extension of time and, accordingly, the plaintiff's motion will be granted. He should file his responses on or before December 14, 2009.

On August 24, 2009, the plaintiff filed a motion for a thirty-day extension of time to file a response to motions to dismiss filed by defendants Travis Curtis, Dr. Timothy A. Robert, and Regina Sweeney. These defendants do not object to the plaintiff's motion and, therefore, the plaintiff's motion will be granted. He should file his responses to the motions to dismiss on or before January 11, 2010.

On September 3, 2009, the plaintiff filed a motion to stay this action because of a pending transfer to another institution and uncertainty over when he will have access to his legal materials. This motion should no longer be necessary because the plaintiff was transferred over two months ago and because he has been granted extensions of time to file responses to the defendants' motions to dismiss.

Accordingly,

**IT IS ORDERED** that the plaintiff's motion to strike (Docket #38) be and the same is hereby **DENIED AS MOOT**.

**IT IS FURTHER ORDERED** that the plaintiff's motion for leave to conduct discovery (Docket #54) be and the same is hereby **DENIED**.


**IT IS FURTHER ORDERED** that the plaintiff's motion for extension of time (Docket #71) be and the same is hereby **GRANTED**. The plaintiff shall file responses to the motions to dismiss filed by defendants Dr. David L. Black and Aegis Sciences Corporation on or before **December 14, 2009**.

**IT IS FURTHER ORDERED** that the plaintiff's motion for extension of time (Docket #74) be and the same is hereby **GRANTED**. The plaintiff shall file responses to the motions to dismiss filed by defendants Travis Curtis, Dr. Timothy A. Robert, and Regina Sweeney on or before **January 11, 2010**.

**IT IS FURTHER ORDERED** that the plaintiff's motion to stay (Docket #78) be and the same is hereby **DENIED**.

Dated at Milwaukee, Wisconsin, this 18th day of November, 2009.

BY THE COURT:



---

J.P. Stadtmueller  
U.S. District Judge